

# Crime Awareness Newsletter

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Courtesy of the

**Department of Defense  
Office of the Inspector General  
Defense Criminal Investigative Service  
Central Field Office**



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## Indictments

### Health Care Fraud

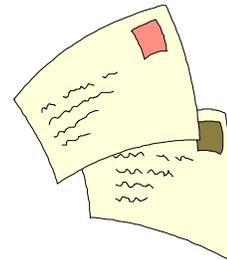
On December 19, 2001, a 20-count indictment was returned against Susanne M. Allen, Grantsville, UT, for allegedly submitting false statements relating to health care benefits programs and health care fraud. Allen is a registered nurse and owner of the Grantsville Urgent Care Center. An investigation disclosed that Allen allegedly misrepresented billings to TRICARE, Medicare, Medicaid, and private insurance programs for procedures that required the supervision of a physician that a physician did not supervise. Allen also allegedly submitted billings for

physicians that either had not yet begun employment or were no longer employed by Allen. The Salt Lake City Post of Duty (POD), is conducting the investigation jointly with the Federal Bureau of Investigation (FBI), the Utah Medicaid Fraud Control Unit, the Utah Department of Occupational & Professional Licensing, the Medicare contractor Blue Cross & Blue Shield, the State of Utah Department of Health Care Financing-Bureau of Coverage & Reimbursement Policy and with audit assistance from the Defense Contract Audit Agency (DCAA).

### Terrorism

On December 20, 2001, Sviatoslav Panko, Indianapolis, IN, was arrested by agents of the DCIS and the U.S. Postal Inspection Service (USPIS) for allegedly mailing threatening communications to various Government agencies. The arrest was made pursuant to a criminal complaint filed with the Federal Court in Indianapolis, IN. An investigation

led to allegations that Panko mailed threatening communications to the Defense Security Service and the FBI. Both letters contained a white powdery substance and a threatening note "You Die Now." Subsequent examination by the Indiana Department of Health confirmed that the letters did not contain Anthrax. The Indianapolis Resident Agency (RA) is conducting the investigation with the USPIS.



### Bank Fraud

On December 28, 2001, an information was filed against Michael D. Emerson in Jefferson Parish, LA, charging him with two counts of State charges for bank fraud. An investigation targeted suspected "phantom employees" of Future-Tec Management Systems, Inc. (FTMS), under a U.S. Navy contract at the Space and Naval Warfare Command Information Technology Center, New Orleans, LA. During 1999, Emerson was employed with FTMS as a security guard under the alleged false identity and Social

Security Number of John Quinton Quave. To facilitate receipt of his direct deposit pay from FTMS, Emerson opened a checking account with Metairie Bank and Trust Company, Metairie, LA, allegedly using the false identity of John Quinton Quave. Emerson also is alleged to have opened a savings account with Metro Bank, Kenner, LA, using the false identity of Jacob Quave. The New Orleans RA is conducting the investigation with the Naval Criminal Investigative Service (NCIS) and the Social Security Administration.

#### **Health Care Fraud**

On December 3, 2001, Dr. Herbert Arnold Daniels was convicted on 43 counts that included health care fraud, mail fraud, and perjury. Daniels defrauded Federal and private health care benefits programs and illegally enriched himself by submitting false claims for services. The scheme to defraud included subjecting TRICARE patients, and others, to unnecessary surgery. The Kansas City RA conducted the investigation jointly with the USPIS and the FBI.

#### **Mail Fraud**

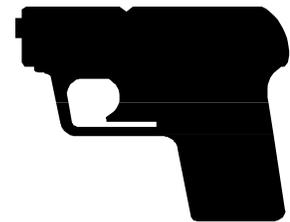
On December 5, 2001, Miguel A. Garcia, a former DoD police officer, previously assigned to the U.S. Army Military Ocean Terminal, Bayonne and Fort Monmouth, NJ, pled guilty to one count each of mail fraud; selling and

possessing badges and other insignia of the design prescribed by the head of a department and agency of the United States; and using, affixing and impressing fraudulently made forged, counterfeit, mutilated and altered seals of department and agencies of the United States. Garcia possessed scores of parking placards bearing the seals and insignias of various U.S. departments and agencies, including those of the DoD, as well as equipment and materials for manufacturing and laminating official-looking parking placards. He also sold two U.S. Marshals Service shields, then made false statements to investigating agents concerning that sale. The New York RA conducted the investigation in conjunction with the Law Enforcement Integrity Unit, U.S. Attorney's Office, Southern District of New York, the FBI, and the New York State Commission of Investigation.

#### **Firearms Violation and False Identification**

On December 13, 2001, a five-count indictment was returned against Robert Allen Walters. He was charged as a felon in possession of a firearm, a fugitive from justice in possession of a firearm, and three counts of possession of false documents. Walters was operating a semi-tractor when he entered the McCook Port of Entry, North Sioux City, SD, for a safety check.

He failed to produce a commercial driver's license, but offered instead three different identification cards. Allegedly, all of the identification cards were fraudulent. One document indicated Walters is a DoD employee with a security clearance assigned to "Area 51." Walters also had in his possession a .25 caliber semiautomatic pistol. Fingerprint analysis later identified Walters as a 1989 escapee from the State of Missouri Correctional System, St. Louis, MO. The Sioux Falls POD is conducting the investigation jointly with the FBI, the Bureau of Alcohol, Tobacco and Firearms, the South Dakota State Police and the Union County Sheriff's Department, Elk Point, SD.



#### **Conversion**

On December 13, 2001, Leo Delapa, Jr., pled guilty to conversion of public money. L. Delapa, Jr., had power of attorney for his father, Leo Delapa, Sr., who died on May 14, 1998. The Defense Finance and Accounting Service (DFAS) continued to electronically deposit monthly military retirement payments into L. Delapa, Sr.'s bank account. From June 1998 through June 2000, DFAS

made monthly deposits of \$1,075. The Government loss was determined to be \$26,910.65. After the DCIS directed that DFAS stop making the retirement payments, the case agent acted in a cameo role as a DFAS employee and recorded a telephone conversation with L. Delapa, Jr. During that conversation, L. Delapa, Jr., advised that he knew he was not entitled to the retirement payments after his father died and he also knew his disabled sister was not entitled to the payments. L. Delapa, Jr., also admitted to spending a portion of the money deposited into the account. In a later interview by the case agent, L. Delapa, Jr., stated he only spent the money because he thought his disabled sister was entitled to the money. L. Delapa, Jr., admitted that after receiving the (cameo) call from the DFAS, he withdrew the remaining DFAS money from the account, closed the account and transferred the money to a different bank where he also had an account. He made no attempts to repay the DFAS. The Orlando RA conducted the investigation jointly with the USFIS and the DFAS.

### **Pornography**

On December 14, 2001, Chris Eugene Wiley, Centreville, VA, waived indictment and pled guilty to possession of child pornography. Wiley, a health systems specialist for the TRICARE Manage-

ment Activity (TMA), Falls Church, VA, unlawfully and knowingly possessed computer disks and other material that contained images of child pornography. Wiley used his TMA computer to download and view the images. The Mid-Atlantic Field Office (FO) conducted the investigation.



### **Environmental Violations**

On December 14, 2001, Advanced Metal Products (AMP), Newbury Park, CA, and Harold D. Huber, president of AMP, pled guilty to five counts of unlawful treatment, storage, dumping and control of hazardous waste. The AMP produces machined aluminum and steel forgings for aircraft parts and equipment, supporting a variety of DoD programs, including the C-130. Since 1993, AMP has had a permit to generate hazardous waste by-products such as nitric acid, sodium hydroxide, petroleum and aqueous cutting oils. The AMP failed to correct a number of increasingly serious violations noted by inspectors from the Ventura County Environmental Health Division. Those violations included the improper storage of sodium hydroxide sludge on site for

over 1 year, open storage of waste petroleum, discharge of waste coolant into a city storm drain, and inadequate manifests and training. The company also routinely treated nitric acid by mixing it with baking powder. The company only held a permit to generate hazardous waste, not to treat it or store it for longer than 90 days. Former AMP vice president, Alexander Gonzales, is scheduled for trial in January 2002. The Woodland Hills RA conducted the investigation with the Ventura County District Attorney's Office and the Ventura County Environmental Health Division.

### **Conspiracy**

On December 17, 2001, William Thurston, a former senior vice president at Damon Clinical Laboratories, Inc. (Damon), formerly of Needham Heights, MA, was found guilty on one count of conspiracy to defraud the United States. Thurston was indicted in January 1998, along with three other former Damon executives, for causing the "bundling" of laboratory blood tests so that tests were automatically performed, even though physicians did not order these tests and they were not medically necessary. This caused higher fees to be paid to Damon by TRICARE and Medicare. The indictment charged that Thurston knew these programs were being billed and knew that these ad-

ditional tests were not medically necessary and were not ordered by the physician. In October 1996, Damon, later purchased by Corning, Incorporated, Corning, NY, pled guilty to conspiring to defraud the United States. At that time, Damon and Corning reached a global criminal and civil monetary settlement in which Damon agreed to pay \$119 million. The Boston RA conducted the investigation with the Department of Health and Human Services (HHS) and the FBI.



### **Anti-Kickback Act**

On December 20, 2001, Robert A. Higgins, owner, Markets In Motion, Stony Brook, NY; Robert A. Steinberg, president, Big Apple Color and Graphics, Ltd. (Big Apple), New York, NY; and Loretta Herrmann, president, Gallagher Varityping Services, Inc. (Gallagher Varityping), Pine Brook, NJ, pled guilty. Steinberg and Herrmann each pled guilty to conspiring to violate the Anti-Kickback Act. Higgins pled guilty to conspiring to violate the Anti-Kickback Act and filing a false Federal income tax return. Big Apple and Gallagher Varityping provided various graphics and printing services that included art-

work, reproductions, conversions and design for advertising and decoration services. Both were subcontractors on Government contracts through Ebasco Services, Inc. (Ebasco). Steinberg and Herrmann's positions involved the solicitation of business, servicing of accounts, and managing the business. Higgins represented a printing company in New York, NY, that provided various graphics and printing services to Ebasco. Higgins was involved in soliciting business and servicing those accounts for that company. Markets in Motion was used to facilitate the payment of kickbacks. Ebasco (with offices in Lyndhurst, Kearny, and Princeton, NJ) and its successors, Enserch Environmental Corporation and Raytheon Engineers and Constructors, were involved in engineering and construction work for Government and commercial sectors. In addition to DoD contracts, Ebasco had numerous Government contracts and subcontracts with the Department of Energy, the National Aeronautics and Space Administration (NASA), the Environmental Protection Agency and the U.S. Postal Service. From November 1989 to March 1994, Steinberg paid kickbacks to Fredric DiNonno and Lawrence Towers, former Ebasco Graphics Department employees, in exchange for favorable treatment on contracts. As a result, Big Apple received \$490,000 in con-

tracts from Ebasco. Steinberg then paid DiNonno and Towers \$73,000 in kickbacks, of which \$22,000 was related to Government work. From November 1989 through June 1994, Herrmann paid kickbacks to DiNonno. The kickback amounts were set at 10 percent of the contract value awarded to Gallagher Varityping. Gallagher Varityping received \$1,480,000 in subcontracts from Ebasco. Herrmann then paid DiNonno \$148,000 in kickbacks, of which \$55,091 was related to Government work. From February 1989 through April 1994, Higgins paid kickbacks to DiNonno and Towers. As a result, companies with which Higgins was affiliated received \$919,000 in subcontracts from Ebasco. Higgins then paid DiNonno and Towers \$139,000 in kickbacks, of which \$35,800 was related to Government work. The New Jersey RA conducted the investigation with the USPIS, the Internal Revenue Service and the NASA.

### **Sentences**

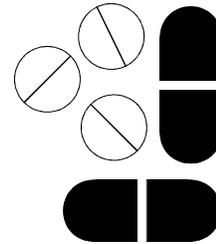
#### **Health Care Fraud**

On December 6, 2001, TAP Pharmaceutical Products, Inc. (TAP), was sentenced in U.S. District Court, Boston, MA, to 5 years probation and to pay a \$290 million criminal fine. TAP previously pled guilty to defrauding Federal health care programs such as TRICARE and Medi-

care. The court found that TAP had caused losses to TRICARE, Medicare and other Federal health care programs amounting to \$145 million. TAP entered its plea of guilty as part of an overall global settlement with the United States. The settlement requires TAP to pay \$875 million to resolve criminal charges and civil liabilities in connection with its fraudulent drug pricing and marketing conduct with regard to Lupron, a drug sold by TAP primarily for the treatment of advanced prostate cancer. By virtue of an interest provision in the Civil Settlement Agreement, which required TAP to begin paying interest on the civil settlement commencing on September 4, 2001, the total amount that TAP will pay will be in excess of \$884 million. TAP is a joint venture owned by Abbott Laboratories and Takeda Chemical Industries, Ltd. It has offices in Illinois, more than 2,000 employees and sales of more than \$3 billion. Beginning in the early 1990s, to induce physicians to prescribe Lupron to patients suffering from advanced stage prostate cancer, TAP began giving doctors free samples as a form of volume discount. TAP representatives fully intended and expected that the doctors receiving the free drug would prescribe the drug to their patients and, thereafter, bill the patients and their insurers for that product. In the 1990s, a 1-month dose of Lupron

ranged from just below \$400 to almost \$600. In 1993, a top doctor with the American Urology Association told TAP to stop providing free samples to doctors because doing so was placing doctors in jeopardy of being prosecuted for taking and billing for free samples. TAP continued to give its sales representatives samples and continued to provide samples to urologists knowing and expecting that those doctors would prescribe the samples and thereafter bill them to their patients. Four doctors have pleaded guilty in connection with this investigation and are awaiting sentencing. Those doctors are Dr. Rodney Mannion, a urologist practicing in LaPorte and Michigan City, IN; Dr. Jacob Zamstein, a urologist practicing in Bloomfield, CT; Dr. Joseph Spinella, a urologist practicing in Bristol, CT; and Dr. Joel Olstein, a urologist practicing in Lewiston, ME. The investigation commenced in 1997, after law enforcement authorities were contacted by Dr. Joel Gerstein, a urologist employed by Tufts Associated Health Maintenance Organization, in Waltham, MA. Gerstein reported he had been offered an educational grant if he would reverse his decision on behalf of Tufts to only cover the less expensive drug Zoladex. The investigation was also triggered by a civil False Claims Act suit filed in 1996 by Douglas Durand, former TAP vice president of

sales, because of his concerns about the illegal marketing conduct of some of TAP's employees. The Boston RA conducted the investigation with the FBI, the Food and Drug Administration and the HHS.



#### **False Statement**

On December 10, 2001, Phargo Limited Liability Corporation (Phargo), d.b.a. Buffalo Weaving and Belting Company, Buffalo, NY, was sentenced to pay a \$16,000 fine and a \$125 special assessment. Phargo previously entered a plea of guilty to making a false statement on an official writing. An investigation was initiated after a former U.S. Government quality assurance representative reported that Phargo personnel were falsifying tests concerning arrestor tapes. An arrestor tape is the textile belt attached to the cable that catches the tailhook of a fighter jet as it lands. It was determined that Phargo falsified test reports concerning the strength of key portions of these tapes. The exact loss to the DoD is unknown. Much of the DoD stock of arrestor tapes, determined to have had the relevant testing falsified, was provided to the

DoD field elements and discarded before the start of this investigation. A Safety Alert was issued to impacted activities. The Syracuse RA conducted the investigation.

#### **False Statements**

On December 11, 2001, Joseph Binder, president, Schweizer Emblem Company, Park Ridge, IL, was sentenced to 24 months probation, and ordered to pay \$271,868.30 restitution and a \$200 special assessment. An investigation disclosed that Binder caused American Uniform Sales (AUS), a prime DoD contractor, to make false and misleading statements to the Government regarding the country of manufacture for uniform emblems. The contract called for the nearly 1.8 million uniform emblems, costing roughly \$800,000, to be manufactured domestically. Binder and Schweizer provided AUS with not only foreign-made emblems, but emblems that failed in numerous aspects to meet contractual requirements. The Chapel Hill RA conducted the investigation.

#### **Executive Officer Employment Restrictions**

On December 18, 2001, Colonel Charles P. Datema, U.S. Air Force (Retired), was fined \$1,000 and a \$25 special assessment. Datema previously pled guilty to violating the 2-year restriction on former officers of the Executive Branch. From 1994

through November 1996, Datema was assigned as an official of the National Reconnaissance Office (NRO), an intelligence agency of the United States. While assigned there, he was responsible for certain research projects funded by the NRO. One project, approved by Datema, was developed by Science Applications International Corporation (SAIC), a Government contractor. In November 1998, Datema retired from the Air Force and went to work for SAIC. Within two years of his retirement and termination from the NRO, Datema knowingly made a communication to the NRO with the intent to influence that agency on behalf of SAIC. The Mid-Atlantic FO conducted the investigation with the FBI and the OIG, NRO.

#### **Wire Fraud**

On December 19, 2001, Penelope Smith, president, Janitorial and Maintenance Service (JAMS) and PENEL Corporation (PENEL), Morristown, NJ, was sentenced to 18 months in prison, 36 months of supervised release, fined \$457,715 and ordered to pay a \$400 special assessment. Additionally, JAMS and PENEL were ordered to pay \$400 special assessments. Smith previously pled guilty to impersonating a DoD contracting officer, wire fraud and mail fraud. Smith also entered guilty pleas for both companies on a single

count of mail fraud. Smith admitted to devising a scheme where she represented herself as a DoD contracting officer and created false Government contracts to defraud other companies out of goods and services. Some of these fraudulently received goods were actually delivered to the DoD on contracts awarded to JAMS. The Government paid JAMS, but the companies providing the goods and services were not paid. Smith also created false DoD contracts that were used as collateral with finance companies. Through these schemes, Smith defrauded the Government and private companies out of at least \$364,000. The New Jersey RA conducted the investigation with the FBI and the NCIS.



#### **Product Substitution**

On December 21, 2001, L. T. Seals, Inc., and Elesa Brandenburg, president of L. T. Seals, Galena, KS, were sentenced in Springfield, MO. Brandenburg was sentenced to 30 months confinement, with 3 years of supervised probation upon release, and a \$100 special assessment. L. T. Seals was ordered to pay a \$400 special assessment.

The defendants were further ordered to jointly pay DoD restitution of \$421,606. The defendants previously pled guilty to committing mail fraud by substituting commercial o-rings sent to the DoD and falsely representing that the o-rings met contractual requirements. Brandenburg and L.T. Seals obtained orders to supply the DoD with various types and sizes of o-rings and seals that met military specifications. However, Brandenburg and L.T. Seals provided o-rings manufactured from neoprene rather than nitrile, the material specified by the contract. One of these o-rings was installed in the fuel system of a U.S. Air Force B-1B bomber. An investigation revealed that a B-1B declared an in-flight emergency. The B-1B landed safely and the ground crew found jet fuel leaking into the weapons bay. The fuel leak, which was traced to the defective L.T. Seals o-ring, caused over \$87,000 damage to the aircraft. The Wright-Patterson Air Force laboratory requested that Brandenburg and L.T. Seals provide information on the origin of the o-rings, but they refused to cooperate. The Wichita POD conducted the investigation jointly with the USPIS.

## Civil Settlements

### Health Care Fraud

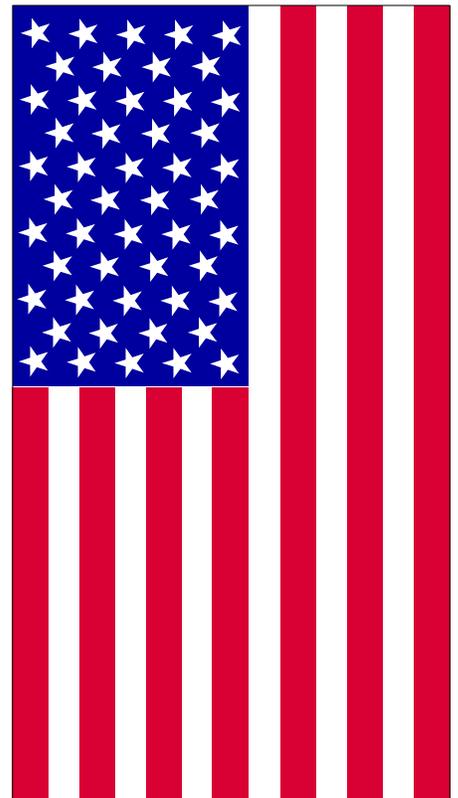
On December 12, 2001, a civil settlement agreement was reached between

Nighttime Pediatrics Clinic (Nighttime), Midvale, UT, and the U.S. Attorney's Office, Salt Lake City, UT. The settlement addresses allegations that Nighttime defrauded Government health care insurance programs by submitting false claims that Nighttime knew or should have known were false and that Nighttime acted in deliberate ignorance of the truth or falsity of the claims. Nighttime agreed to pay the Government \$71,185.22 to settle these issues. Nighttime allegedly billed TRICARE and Medicaid for the higher reimbursement of new patient visits when, in fact, claims should have been for the lower reimbursement of established patient visits after their initial appointment. From 1992 through 2000, Nighttime improperly billed TRICARE for 89 claims and was paid \$1,388.53, and Medicaid for 2,151 claims for which Nighttime was paid \$15,673.15. The Salt Lake City POD conducted the investigation jointly with the HHS and the Utah Medicaid Fraud Control Unit, with audit support from the DCAA.

### Qui Tam

On December 14, 2001, Bert Fish Medical Center, Inc., New Smyrna Beach, FL, entered into an agreement to pay the United States \$293,334 and to comply with the terms of a Corporate Integrity Agreement with the HHS. This agreement will settle allegations set forth in a

*qui tam* complaint. An investigation determined that Bert Fish Medical Center submitted, or caused the submission of, claims to the Medicare program and the TRICARE program in which the principal diagnosis was not supported by the corresponding medical records. The Nashville POD conducted the investigation.



# United



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